

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

THEOPHILUS BLACKSTON,

Plaintiff,

v.

Civil Action No. 2:10cv14

STEPHEN VOGRIN,

Defendant.

ORDER

It will be recalled that on March 24, 2010, Magistrate Judge John S. Kaull filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation. Plaintiff filed his objections on April 7, 2010.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff in his civil rights Complaint, wherein Plaintiff alleges his constitutional right to privacy was violated, were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the Plaintiff's objections, the Court finds that the Plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. More particularly, as set forth in the Report and Recommendation, the Court finds that Plaintiff cannot establish that he has a federal constitutional right to privacy in his personal medical information, and that protected health information under HIPAA is expressly permitted in

judicial proceedings. The Court hereby declines to exercise supplemental jurisdiction over any alleged violations of state statutory rights. Therefore, it is

ORDERED that Magistrate Judge Kaul's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's civil rights complaint be, and the same hereby is, **DISMISSED with prejudice** for failure to state a claim, and that this civil action be **STRICKEN** from the docket of the Court. It is further

ORDERED that the Clerk shall enter judgment for the Defendant. It is further

ORDERED that Plaintiff's requests for appointment of counsel and to proceed anonymously shall be, and the same hereby are, **DENIED** as moot. It is further

ORDERED that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: April 28th, 2010

/s/ Robert E. Maxwell
United States District Judge